***THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

+ WRIT PETITION NO : 10177 of 2005

% 29-11-2005

CH.KIRON AND OTHERS. . PETITIONERS

VS.

$ THE COLLECTOR, R.R.DISTRICT. AND ANOTHER . RESPONDENTS.

! Counsel for the Petitioners: MR.M.V.DURGA PRASAD

^ Counsel for the Respondent No.1 : GOVT. PLEADER FOR REVENUE

Counsel for the Respondent No.2 : Mr. P.RAJAGOPALA RAO

< Gist:

> Head Note:

? CITATIONS:

1. 1999(7) SCC 44
2. 2005 (9) SCC 164
3. AIR 2003 SC 3140
4. 1996(6) SCC 407
5. AIR 1996 SC 90
6. AIR 2004 SC 3648
7. 2005(7) SCC 627
8. AIR 1971 SC 306
9. AIR 1970 SC 802
10. AIR 1968 SC 366
11. AIR 1995 SC 1004
12. 2002(2) ALT 167
13. 2002 SUPP (1) ALD 724
14. 1997(5) ALD 288
15. 1982 (2) ALT 138
16. WP.23611/2001,DT.21.11.2001
17. 1997(3) ALT 516
18. 2005 AIHC 3073
19. AIR 1982 AP 474
20. 1997(9)SCC 132
21. 1979(1) ALT NRC 59 (DB)
22. W.A.NO.294 AND BATCH, DT.7-10-2005
23. W.A.NO.414/2000, DT.7.6.2000
24. AIR 1996 SUPREME COURT 866

COMPUTER NO.

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.10177 OF 2005

DISPOSED OF ON 29-11-2005.

BETWEEN:

CH.KIRON AND OTHERS. . PETITIONERS

AND

THE COLLECTOR, R.R.DISTRICT. AND

ANOTHER . RESPONDENTS.

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.10177 OF 2005

O R D E R :

1. This Writ Petition has been filed by the petitioners who are four in number with a prayer to issue a writ of mandamus declaring the issuance of notification bearing No.G2/5945/2003, dated 6.12.2003 as amended by notification bearing No.G2/5945/2003, dated 8.12.2004 and all further proceedings including notification bearing No.G2/5945/2003, dated 9.12.2004 issued by the Collector, R.R. District-1st respondent as illegal, malafide and contrary to law.

2. Ch.Kiron-1st petitioner has sworn to the counter affidavit. The case of the petitioners as set out in the writ affidavit, in brief, is:

Petitioner Nos.1 to 4 purchased Ac.1-00 guntas, Ac.1-00 guntas, Ac.2-00 guntas and Ac.2-00 guntas respectively, totally admeasuring Ac.6-00 guntas comprising Sy.No.90/1, situated at Gachibowli, Serilingampally Mandal and Municipality, R.R. District belonging to M/s.A.M.E.I.Power Limited (in liquidation), represented by the Official Liquidator, appointed by this Court, by way of assignment from the purchasers in the auction conducted in C.A.No.598/2002 in R.C.C.No. 17/1998. The assignment in favour of the petitioners was accepted and recognized by the Court by an order dated 6.11.2002 in C.A.No.849 of 2002 in C.A.No.598 of 2002 in R.C.C.No.17/1998 and the Official Liquidator was directed to execute sale deeds in favour of the petitioners in respect of respective extents. The petitioners paid the entire consideration before the assignment and took possession of the said lands. They purchased the lands for the purpose of their commercial cum office requirements namely publishing and media business. They came to know that 1st respondent issued Sec.4(1) notification dated 16.11.2003 under Land Acquisition Act published in A.P. Gazette, R.R.No.63, dated 19.11.2003 and amendment thereto by notification bearing No.G2/5945/2003 dated 8.12.2004. Subsequently a declaration under section 6 of the Land Acquisition Act was made by proceedings in G2/5945/2003, dated 9.12.2004 declaring that an extent of Ac.2-29 gts is needed for public purpose "to wit for formation of outer ring road". The amended notification dated 8.12.2004 under section 4(1) of the L.A. Act and declaration under section 6 of L.A. Act dated 9.12.2004 were published in A.P. Gazette Nos.82 and 83 dated 9.12.2004 and 10.12.2004 respectively. The publications are simultaneous and without any gap and hence void. The amendment to Sec.4(1) notification is with regard to material aspects and thus a fresh notification of Sec.4(1) is required to be made. After amendment to Sec.4(1) notification, no enquiry u/s 5A has been conducted and thus issuance of Sec.6 declaration basing on the said amended notification is not legal and proper. For better understanding of the grievance of the petitioners I deem it appropriate to refer the relevant portion of the writ affidavit and it is thus:

> " 4(vii) It is further submitted that the alleged purpose of laying Outer Ring Road is not true or real and the lands are being acquired only with a view to cause wrongful loss to the petitioners by deliberately curving the proposed outer ring road, which is contrary to the purpose of any ring road, by changing the actual plan. A sketch is filed herewith showing the manner the proposed road was diverted taking almost a perpendicular curve to reach the petitioners' land. Though, the purpose and object of outer ring road is to have straight road to ensure high speed with safety required for modern life, the illegal and wasteful diversion is resorted to cause wrongful loss to the petitioners in view of their frank publication of news interfering with their freedom of expression. Hence, the impugned action is malafide and violative of Article 19(1) of Constitution of India.
>
> viii. It is submitted that adjacent to the petitioners' land, there are vast Government lands and the purpose of laying of ring road to ensure speed passage of traffic by avoiding any curves, which are unsafe. The proposed outer ring road coming from Miyapur to Gachibowli, if laid in a straight manner as is mandatory would have to be laid through the said Government lands, but under pressure from the persons, who are trying to get them assigned for their commercial and business purposes are also behind such illegal change of plans, resulting in such a illegal curve. The plan is deliberately diverted contrary to public interest in detriment to the interest of the public as well as the petitioner and hence acquisition is without any public interest and prejudicial exchequer.
>
> ix. The petitioners have made valuable improvements, before impugned proceedings acting on the land use certificate issued by the second respondent. They are estopped from changing the same to the prejudice of petitioners."

3. The respondents filed counter affidavit. The counter affidavit, in brief, is:

The Hyderabad Urban Development Authority filed requisition for acquisition of lands comprising S.Nos.2,3,4,6,10,90/2 situated at Gachibowli (V), Serilingampally Mandal for laying of outer ring road. A draft notification u/s 4(1) of the L.A. Act was published in A.P. Gazettee No.63, dated 19.11.2003 notifying the lands in S.Nos.2,3,4,6,10,90/2 situated at Gachibowli (V), Serilingampally Mandal admeasuring Ac.6-32 guntas situated at Gachibowli (V), Serilingampally Mandal, R.R. District. The draft notification was also published in two daily newspapers Praja Shakthi (telugu) dated 10-12-2003 and The Hindu (english) dated 10-12-2003. The substance of draft notification was also got published in the locality on 5.12.2003. Form III notice under section 5 of L.A. Act was issued on 1.1.2004 inviting objections, if any, from the land owners and interested persons within 30 days from the date of publication of the notice in the locality. Form III notice was published in the locality on 5.1.2004 and a copy of the notice was also affixed on the factory sheds located in S.No.90/2 on 5.1.2004 in the presence of witnesses due to non-availability of any one to receive the notice. No one has filed objections in response to the draft notification u/s 4(1) within the specified period. An enquiry u/s 5A was conducted by the LAO on 9.1.2004. Neither the notified person nor the persons interested or the writ petitioners appeared before the LAO, HUDA to raise objections for acquisition of land. As such further action was taken by the LAO for publication of draft declaration u/s 6 of the L.A. Act duly completing the survey and sub-division work. During the course of survey and sub-division work, it was found that the land in S.No.90/1 to an extent of Ac.2-29 guntas was coming under the alignment of Outer Ring Road instead of land in S.No.90/2 admeasuring Ac.2-21 gts. As such proposals for amendment to draft notification incorporating the structures existing in S.No.90/1 were submitted to the Collector, R.R.

District for approval through the LAO, HUDA. The Collector, R.R. District approved the amendment to the draft notification and got it published in A.P. Gazettee No.82, dated 9.12.2004 apart from paper publication in two daily newspapers; Varthamanam (telugu) and Citizen Daily (English) on 10-12-2004. As per revenue records, the land owner for both the survey numbers No.90/1 and 90/2 is one and the same i.e. T.K.Shyam, Director, A.M.I.E. Power Ltd. The draft notification under section 6 of the L.A. Act was approved by the Collector, R.R. District on 9.12.2004 and got published in A.P. Gazettee No.83, dated 10-12-2004 apart from paper publications; Andhra Jyothi (telugu) and Deccan Chronicle (English) on 13.12.2004. The substance of the draft notification was also published in the locality on 10.12.2004. The writ petitioners never objected for the acquisition of land comprising either S.No.90/2 or 90/1. As per the master plan approved by the Government vide G.O.Ms.No.538 M.A., dated 29.10.2001 there is a provision for road touching S.No.90 situated at Gachibowli junction. The purpose of acquisition of land is for laying of Outer Ring Road which is a public purpose. Accordingly, action has been initiated under L.A. Act. Laying of outer ring road around the city is taken as a prestigious project and it is taken out for the use of general public.

4. The petitioners filed reply affidavit. It is stated in the reply affidavit that the enquiry conducted under Sec.5A of L.A.Act prior to the issuance of amendment to Sec.4(1) notification is irrelevant as it does not pertain to the lands claimed by the petitioners. Para 4 of the reply affidavit reads as under:

> " 4. It is submitted that the allegations that substance was published locally on 5.12.2003 and on 1.1.2004 and 5-A enquiry was conducted on 9.1.2004 and on 10.12.2004 in para 3 of the counter are false and hence, denied. They are irrelevant and are no consequence as they do not pertain to the petitioners' land admittedly and it was only during the course of survey of sub-division work, the respondents realized that the land required by them is in Survey No.90/1 and not 90/2 and amendment was made only as per the publication in Gazette dated 9.12.2004. Therefore, all the alleged proceedings under the Act, if any are irrelevant and on consequential till 9.12.2004. It shows that the respondents were only interested in causing harm to the petitioners and not in the land as such. It is untenable to say the petitioners did not object to the proceedings made in respect of Survey No.90/1. Such void and malafide proceedings cannot be cured by an amendment, which is not contemplated by the Act."

5. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for the first respondent and learned counsel appearing for the 2nd respondent.

6. Learned counsel appearing for the petitioners submits that notification dated 8.12.2004 is not in accordance with the provisions of Sec.4(1) and thus it is to be treated as nonest in law and thereby entire proceedings consequent to the said notification are to be declared as null and void. In elaborating his submissions, he contends that Sec.4(1) notification is required to be published in the official gazette, and daily newspapers having circulation in the locality where the property situates and since Varthamanam (Telugu) in which the notification has been published has no wide circulation, Sec.4(1) notification suffers from incurable defect and it is liable to be set-aside. A further submission has been made that the very issuance of amendment to the earlier notification is motivated with the sole object of acquiring the lands of the petitioners. What he means to say is that the original ring road plan has been planned in such a way to cover the lands of the petitioners and it is motivated and fraud on power. It is also submitted by him that Sec.6 declaration in respect of the lands of the petitioners is in contravention of the provisions of the L.A. Act since the same has been affected without giving any opportunity to the effected persons to file objections to the proposed acquisition of lands. Yet another submission has been made that the very scheme of formation of ring road is without obtaining permission from HUDA as contemplated under A.P.Urban Areas (Development) Act, 1975. A strenuous contention has been repeatedly made by the learned counsel that the respondents have played fraud and used their power in issuing the amendment to the original notification under Sec.4 of L.A.Act so as to cover the lands of petitioners in formation of outer ring road. In support of his submissions, reliance has been placed on the following decisions:

1. DELHI ADMINISTRATION Vs. GURDIP SINGH UBAN
2. ANAND BUTTONS LTD. V. STATE OF HARYANA AND OTHERS
3. PRATIBHA NEMA AND OTHERS V. STATE OF M.P.AND OTHERS
4. NANDATAI V. STATE OF MAHARASHTRA
5. STATE OF KARNATAKA V. NARASIMHAMURTHY
6. HIRA TIKKOO V. UNION TERRITORY, CHANDIGARH

7. HINDUSTAN PETROLEUM CORPN.LTD. V. DARIUS SHAPUR CHENAI

8. NARENDRAJIT V. STATE OF U.P

9. GUNWANT KAUR V. BHATINDA MUNICIPALITY

10. SUNDERLAL V. PARAMSUKHDAS

11. M/S.NEYVELY LIGNITE CORPN.LTD. V. SPL.TAHSILDAR (LAND ACQUISITION), NEYVELI

12. PEDDI ANJAIAH V. LAO AND RDO

13. PAMULAPARTHY NARASIMHA REDDY V. GOVT. OF A.P.

14. U.K.MURTHY V. GOVT. OF A.P.

15. MOHD.KHAJA V.GOVT. OF A.P.

16. VISAKHA SEVA SANGHAM V. PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, VISHAKHAPATNAM

17. A.L.N.PRASAD (Dr.) VS. STATE OF A.P.

18. SECREATARY TO GOVT. OF T.N. V. J.SIVAPRAKASAM

19. GOPAL INNANI V. STATE

7. Sri.P.Rajagopala Rao, learned counsel appearing for Land Acquisition Officer, HUDA-2nd respondent submits that the amended notification is only in respect of a survey number and therefore it dates back to the original notification and in which case the petitioners are not entitled to raise any objections to Sec.4 (1) notification since they had no interest in the lands as on that date. It is also submitted by him that the petitioners as on this day do not have any registered documents in their favour and therefore they are not entitled to raise any objection to Sec.4 (1) notification as well as Sec.6 declaration and at the most they are entitled to participate in the award enquiry to claim compensation. A further submission has been made that the acquisition is for laying the outer ring road which is for the public purpose and the objections raised by the petitioners attributing malafides to the authorities have no basis and are ill-founded. A further submission has been made that the original notification and amended notification published under section 4(1) and original declaration and amended declaration published u/s 6 of the Act are in accordance with the provisions of L.A.Act and the same are not liable to be interfered. In support of his submissions, reliance has been placed on the decisions of Supreme Court in

(1) ANAND BUTTONS LTD. V. STATE OF HARYANA (2 supra)

(2) MOHAN SINGH V. INTERNATIONAL AIRPORT AUTHORITY OF INDIA

3. PRATIBHA NEMA V. STATE OF M.P.(3 supra)

4. NANDATAI V. STATE OF MAHARASHTRA (4 supra)

5. STATE OF KARNATAKA V. NARASIMHAMURTHY (5 supra)

6. DELHI ADMINISTRATION V. GURDIP SINGH URBAN (1 supra)

7. P.CHOUDRANI V. DISTRICT SOCIAL WELFARE OFFICER,(LA), CUDDAPAH

8. U.K.MURTHY V. GOVT. OF A.P (14 supra)

9. PAMULAPARTHY NARASIMHA REDDY V. GOVT. OF A.P.(13 supra)

10. SMT.BIJANBEE AND DISTRICT COLLECTOR, RR

11. CHALASANI LAKSHMI V. STATE OF A.P.

12. PEDDI ANJAIAH V. LAO AND RDO (12 supra)

8. The two issues which require to be resolved in this writ petition are:

i. Whether Sec.4 (1) notification is valid?

ii. Whether Sec.6 declaration is valid?

9. Before dwelling on the rival contentions of the parties a brief resume of facts need to be noted. M/s.A.M.E.I. Power Limited owns land comprising S.Nos.90/1 and 90/2. The company went into liquidation. An Official Liquidator came to be appointed. In the process of realization of assets of the company, certain properties were auctioned by the Court i.e. plant and machinery, land-bearing S.No.90/1 along with structures etc. The land bearing S.No.90/1 along with structures with a built up area came to be purchased by Mr.Narender Dhanpal and others in the said auction. The auction purchasers assigned their rights in favour of the petitioners. The official liquidator on behalf of the original owner, and the auction purchasers executed sale deeds in favour of the petitioners. The sale deeds are presented for registration and they are yet to be registered. A fact remains that as on this day M/s.A.M.E.I. Power Limited is the registered owner of the lands comprising S.Nos.90/1 and 90/2. The original notification u/s 4 of the L.A. Act issued in Form II A is dated 16.11.2003. It came to be published in A.P. Gazette on 19.11.2003. After Sec.5A enquiry, Sec.6 declaration came to be published on 10.12.2004. On coming to know that the outer ring road covers survey No.90/1 instead S.No.90/2, a notification came to be issued by way of amendment to the original notification. The amended notification is dated 8.12.2004. It came to be published in A.P. Gazette on 9.12.2004. The amendment dated 9.12.2004 to the draft declaration u/s 6 of the L.A. Act also came to be published in A.P. Gazette on 10.12.2004. For better understanding, I may refer the original Sec.4(1) notification as well as the errata issued to the original notification. The relevant portion of notification dated 16.11.2003 published in A.P. Gazette dated 19.11.2003 reads as follows:

Sy.No.	DryOr Wet	ClassiFicationPatta/Inam	Name of the owner/Occupier Sarvasri	ApproxiMate extentAcres/Units	Structure
90/2	Dry	Patta	1.T.K.Shyam (Director)AMEI Power Ltd.	2-21	

The relevant portion of notification dated 8-12-2004 published in A.P. Gazette dated 9.12.2001 reads as follows:

Sy.No.	ClassiFicationPatta/Inam	ExtentNotifiedAc.Gts	Name of thePattedar/EnjoyerWith father nameSarvasri	Sy.No.	ClassificationPatta/Inam	ExtentNotificed Ac.Fts	Name ofThe Pattedar EnjoyerWithFatherN
1	2	3	4	5	6	7	8
90/2	DryPatta	2.21	T.K.Shyam(Director)(AMEI Power Ltd.)	90/1	DryPatta	2.29	T.K.Shyam (Directo PowerLtd.)

10. It is no more in dispute that M/s.A.M.E.I. Power Limited is the original owner of the lands comprising S.No.90/1 and 90/2. It is settled law that the process of acquisition has to start with a notification issued under S.4 of the Act, which is mandatory, and even in cases of urgency, the issuance of notification under S.4 is a condition precedent to the exercise of any further powers under the Act. Any notification, which is aimed at depriving a man of his property, issued under S.4 of the Land Acquisition Act has to be strictly construed and any serious lapse on the part of the acquiring authority would vitiate the proceedings and cannot be ignored by the courts. The object of issuing a notification under S.4 of the Act is twofold. First, it is a public announcement by the government and a public notice by the Collector to the effect that the land, as specified there in, is needed or is likely to be needed by the government for the "public purpose" mentioned there in; and secondly, it authorizes the departmental officers or officers of the local authority, as the case may be to do all such acts as are mentioned in S. 4(2) of the Act. The notification has to be published in the locality and particularly persons likely to be affected by the proposal have to be put on notice that such an activity is afoot. The notification is, thus, required to give with sufficient clarity not only the "public purpose" for which the acquisition proceedings are being commenced but also the "locality" where the land is situated with as full a description as possible of the land proposed to be acquired to enable the "interested" persons to know as to which land is being acquired and for what purpose and to take further steps under the Act by filing objections etc., since it is open to such persons to canvass the non-suitability of the land for the alleged "public purpose" also. If a notification under S. 4(1) of the Act is

defective and does not comply with the requirements of the Act, it not only vitiates the notification, but also renders all subsequent proceedings connected with the acquisition, bad.

11. The main contention urged in the writ petition is the amendment to the notification u/s 4(1) of L.A. Act not having been published in two daily newspapers of widely circulated, as required by Central Amendment Act No.68/84, is liable to be quashed. By the Central Amendment Act No.68/84 the following words are added in Sec.(1) of Sec.4 after the words "shall be published in the official Gazette and before the words" and "the Collector shall cause public notice in two daily newspapers circulated in that locality of which atleast one shall be in the regional language."

12. Much argument has been advanced by learned counsel appearing for the petitioners that publication of notification in Varthamanam (telugu) has no circulation at all and therefore it amounts to non-compliance of statutory provisions. In support of his submissions, reliance has been placed on the decision of Madras High Court in SECRETARY TO GOVERNMENT. OF T.N. V. J.SIVAPRAKASAM (18 supra). In the cited case, the Madras High Court keeping in view the facts and circumstances of the case therein held that the publication effected in Tamil newspapers Kathiravan and Madurai Mani have no circulation at all. Coming to the facts of the case on hand, amendment to Sec.4(1) notification came to be published not only in Varthamanam but also Deccan Chronicle. It is not the case of the petitioners that two newspapers are not daily newspapers. The respondents specifically asserted that the amendment to Sec.4(1) notification has been published in A.P. Gazette apart from taking out paper publication and local publication. In that view of the matter, I find that the paper publication effected in Varthamanam and Deccan Chronicle are in conformity with the provisions of Sec.4(1) of L.A. Act. Learned counsel appearing for the petitioners submits that the names of the petitioners are not reflected in Sec.4(1) notification as owners and therefore the notification is invalid. Per contra, learned Government Pleader for Land Acquisition appearing for the respondents submits that the petitioners' name did not figure in the revenue records as owners of the lands in question and therefore notification cannot be said as invalid because of their names being not mentioned under the column – "Name of the owner/occupier". It is well settled that omission to publish the names of the land owners proposed to be acquired under Sec.4(1) notification does not make the acquisition invalid vide decisions of Supreme Court in NANDATAI V. STATE OF MAHARASHTRA (4 supra), STATE OF KARNATAKA AND OTHERS V. NARASIMHAMURTHY AND OTHERS (5 supra) and the decision of our High Court in P.CHOUDRANI V. DISTRICT SOCIAL WELFARE OFFICER,(LA), CUDDAPAH (21 supra). It is an undisputed fact that the sale deeds presented by the petitioners are not yet released and their names do not appear in the revenue records as owners or possessors. As on this day the name of M/s.A.M.E.I. Power Limited appears in the revenue records as owners of the lands in question. In Sec.4(1) notification the name of the owner has been mentioned. In the facts and circumstances of the case, the respondents-authorities are justified in mentioning the name of the original owner of the land in the possessor column of Sec.4(1) notification.

13. It is nextly contended by learned counsel appearing for the petitioners that gazette notification and paper publication are not simultaneous and thus notification u/s 4(1) is to be declared as invalid. Strong reliance has been placed on the decision of our High Court in MOHD.KHAJA V. GOVT. OF A.P.(15 supra). In the cited decision, unamended Sec.4(1) notification fell for consideration. Sec.4(1) came to be amended by Act.68/84. Sec.4 as amended by Act.68/84 reads as under:

> **"SECTION 4 Publication of preliminary notification and powers of officers thereupon.**
>
> (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose[6][or for a company], a notification to that effect shall be published in the Official Gazette[6][and in two daily newspapers circulating in that locality of which at least one shall be in the regional language] and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality[6](the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)].
>
> (2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,- to enter upon and survey and take levels of any land in such locality; to dig or bore into the sub-soil; to do all other acts necessary to ascertain whether the land is adapted for such purpose; to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle: Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so."

A plain reading of the Section itself indicates of the three publications i.e. gazette publication, paper publication and local publication and the last of such dates is to be taken as the date of publication of the notification. Therefore, the cited case is inapplicable to the facts of the case on hand since notification came to be issued under the amended Act. Therefore, I answer the first point against the petitioners and in favour of the respondents and I find that notification under Sec.4(1) of L.A. Act is legal and valid.

14. **Point No.2**: In the original Sec.4 (1) notification, the land proposed to be acquired comprises S.No.90/2 and in the amended

notification land proposed to be acquired comprises S.No.90/1. The petitioners are concerned with land bearing S.No.90/1. For raising objections to the proposed acquisition of land comprising S.No.90/1, so far as the petitioners are concerned, it is a fresh notification under Sec.4(1) of L.A.Act. Of course, the learned Government Pleader for Land Acquisition appearing for the respondents tried to convince the court that the amendment to original notification relates back to the date of original notification. If the effect of the amendment is with regard to trivial particulars, it can be said that it relates back to the date of original notification. But the amendment, in the instant case, relates to survey number and thereby the petitioners' rights came to be effected. In these circumstances I find that the amended notification dated 8.12.2004, sofaras the petitioners are concerned, is a fresh notification in respect of the lands over which they claim to have interest. At this juncture, I deem it appropriate to refer Sec.5A of the L.A. Act and it reads as under:

> **SECTION 5A Hearing of objections:**
>
> (1) Any person interested in any land which has been notified under section-, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may,[7][within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.
>
> (2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard[8][in person or by any person authorized by him in this behalf] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section-, sub- section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.
>
> (3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

15. A plain reading of Section 5-A of the L.A.Act indicates that the persons interested are entitled to put their objections within thirty days. The thirty days period commences from the last of the three publications.

16. Sri.P.Rajagopala Rao, counsel appearing for Land Acquisition Officer, HUDA appearing for the 2nd respondent submits that the errata notification dates back to the original notification and therefore, declaration under Section 6 of the Act issued on 09.12.2004 is valid. In support of his submission, reliance has been placed on the judgment of the Supreme Court in STATE OF TAMIL NADU V. MAHALAKSHMI AMMAL

17. Learned counsel appearing for the petitioners submits that the cited decision is wholly inapplicable to the facts and circumstances of the instant case, since the parties therein had filed objections in pursuance of the original notification.

18. In view of the rival contentions, I deem it appropriate to refer 8 of the said Judgment and it is thus:

> "8.It is true that the Government having realized that the lands were initially notified to be acquired but did not cover the survey Nos. being situated in the adjacent villages, the errata notification was published and included lands in Survey Nos.2/5, 2/11 and 2/12. Once errata was published, it dates back to the date of initial Section 4(1) notification, namely, June 26, 1978. It cannot be considered to be a fresh notification issued under Section 4(1). It is not in dispute that the respondents, in fact, filed their objections to the notice issued under Section 5-A and Rule 3 of the Rules made by the State Government. Shri Sivasubramaniam is unable to place before us the nature of the objections raised by the respondent-petitioners. But the fact remains that the respondents had the opportunity and, in fact, they did participate in Section 5A enquiry. Therefore, the declaration made under Section 6 does not get vitiated."

19. Coming to the facts of the case on hand, the petitioners' rights came to be effected consequent on the errata notification issued on 8.12.2004. Therefore, the right to resist the acquisition of the land commences from the date of errata notification. Section 6 declaration came to be issued on 9.12.2004. It goes without saying that Sec.6 declaration came to be issued before expiry of thirty days of issuing errata notification under Section 4(1) of the Act. In the facts of the case, the errata notification is to be treated as a fresh notification so far as the land over which the petitioners claim interest. In that view of the matter, I answer the point No.2 in favour of the writ petitioners and against the respondents.

20. In the result, the writ petition is partly allowed, setting aside Section 6 declaration only issued on 09.12.2004. It goes without saying that Section 4(1) Notification issued in respect of the lands claimed by the petitioners is valid. The writ petitioners shall file their objections, if not already filed, within thirty days from today and further proceedings are required to be conducted in accordance with the provisions of the Act. No costs.

Dated: 29-11-2005. (B.Seshasayana Reddy,J)

Tnb/cs

LR COPY TO BE MARKED

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.10177 OF 2005

DISPOSED OF ON

29-11-2005.